

**LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN BERNARDINO**

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**DATE:** OCTOBER 6, 2003

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: AGENDA ITEM #4:** LAFCO SC#208 – Irrevocable Agreement to Annex No. 03-001, City of Fontana for Sewer Service (Jack in the Box Restaurant)

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SUBMITTED BY: City of Fontana

RECOMMENDATION:

- 1) For environmental review, take the following actions as a responsible agency:
  - a. Certify the Commission has reviewed and considered the environmental assessment and Negative Declaration with mitigation measures prepared by the County of San Bernardino for the Conditional Use Permit to Establish a Jack-in-the-Box Restaurant with Drive-thru on 0.6 acres and found them to be adequate for Commission use;
  - b. Determine that the Commission does not intend to adopt alternatives for this project, that all mitigation measures are the responsibility of the County of San Bernardino, not the Commission, and are self-mitigating through implementation of the adopted Conditions of Approval for the project; and,
  - c. Direct the Clerk to file the Notice of Determination within five working days.

- 2) Approve SC#208 authorizing the City of Fontana to extend sewer services outside its boundaries to Assessor Parcel Number 0237-054-19; and,
- 3) Adopt LAFCO Resolution #2784 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Fontana's boundaries.

**BACKGROUND:**

The City of Fontana has submitted a request for approval of an out-of-agency service agreement that outlines the terms by which it will extend sewer service. The agreement relates to the parcel generally located at the northwest corner of the intersection of Slover and Citrus Avenues, in the south central portion of the City of Fontana sphere of influence. Attachment #1 provides a location and vicinity map of the site.

The City, on behalf of the property owners, has requested that the Commission review and approve the extension of service pursuant to the provisions of Government Code Section 56133. The following information identifies the current uses on the single parcel, APN #0237-054-19, only a portion of which is affected by the Irrevocable Agreement to Annex being reviewed. The uses are:

- The eastern portion of the identified parcel is developed as a convenience store and gas station. These uses are not currently connected to the City's sanitary sewer system and are not contemplated to be through this approval.
- The western portion of the parcel is currently graded, vacant land presently covered with wild grass and weeds. It is proposed for development of a restaurant, a Jack in the Box with drive-thru facilities and parking.

The County of San Bernardino Land Use Services Department has processed the approval of a Conditional Use Permit for development of the western portion of the site for the Jack in the Box restaurant. The Conditions of Approval placed upon this project include the requirement for connection to the City of Fontana sewer system. The City of Fontana pre-zoning of the site is for Community Commercial, which would allow for the restaurant development proposed and the current gas station/convenience store development occupying the eastern portion of the site.

Pursuant to the Commission's application requirements for service contracts, information is to be provided regarding all financial obligations for the extension of services outside an agency's boundaries. Accordingly, through the processing of this service contract application, the City has supplied LAFCO staff with information that relates to the extension of service to this portion of the parcel. The calculation of charges is based upon equivalent dwelling units. For a fast food restaurant, this factor is determined by the number of plumbing fixtures multiplied by the City's sewage generated factor. In this case that would represent 2.4864 EDUs (56 x 0.0444). The calculation of the charges based upon EDUs is:

Sanitary Sewage Facilities Expansion Fees (paid to Inland Empire Utilities Agency)	\$3,840 x 2.4864 EDUs	\$9,547.78
Sewer Connection Charge	\$770 x 2.4864 EDUs	\$1,914.53
Sewer Deposit	4 x \$20.21 (monthly sewer rate) x 1.5 (premium rate outside city boundary)	\$121.26
Sewer Permit	1 permit x \$25	\$25.00
TOTAL		\$11,608.57

The ultimate operator of the restaurant will be charged a monthly rate of \$30.32 for sewer service (a premium rate representing 1½ times the in-City rate of \$20.21).

Authorization of this agreement by the Commission is required before the City of Fontana can take the final actions to implement the terms of the agreement, which will apply to the current processing of the Jack in the Box restaurant. In order for the development project to proceed, it must show proof of its ability to connect to the City of Fontana sewer infrastructure (County Conditions of Approval, Items #24 and #25 for CUP).

The parcel proposed for service is contiguous to existing City boundaries along its eastern border, Citrus Avenue. The City of Fontana has not proposed annexation of this single parcel as it is working toward the annexation of the balance of the territory in a comprehensive approach. Therefore, the contract presented is an interim step for the area, allowing the proposed development to proceed while the City works toward packaging the overall annexation.

Staff has reviewed this application against the criteria established by Commission policy and Government Code Section 56133. The staff supports the City's request to provide sewer service by contract to the parcel since its facilities are adjacent to the anticipated development, and there is no other existing entity available in the area to provide the level of service required by the project. In making its determinations the Commission will need to find that the contract complies with the provisions of this code section and with the standards adopted by the Commission for implementing these provisions.

**FINDINGS:**

1. The area is within the sphere of influence assigned the City of Fontana. The parcel will receive its water service from the Fontana Water Company and the application requests the receipt of City of Fontana sewer service to the western portion of the parcel.
2. The service contract to be considered is for the ultimate provision of sewer service by the City of Fontana. This contract will fulfill the requirements of the County for development of the Jack in the Box restaurant. The approval of the contract will allow the City and property owners to finalize the agreement so that building plans for this portion of the site can be finalized with the County.
3. The fees charged to this project by the City of Fontana are identified in the staff report, totaling \$11,608.57, in addition to the payment of LAFCO fees for processing of the out-of-agency service contract. The payment of the City of Fontana fees and charges is required prior to receipt of City services.
4. In July 2003, acting as the CEQA lead agency, the County prepared an environmental assessment for the Conditional Use Permit to establish a Jack-in-the-box restaurant with a drive-thru on 0.6 acres of the parcel located at the northwest corner of Slover and Citrus Avenues. This decision indicates that the project would not have a significant effect upon the environment through its development under the Conditions of Approval imposed.

LAFCO Environmental Consultant, Tom Dodson and Associates, has provided a review of the County's initial study and Negative Declaration issued for this CUP. Mr. Dodson's analysis has indicated that the County's initial study and Negative Declaration are adequate for the

Commission's use as a CEQA responsible agency. The Commission will not be adopting alternatives or mitigation measures for this development, as these are the responsibility of the County. Attachment #4 provides a copy of Mr. Dodson's response and recommendation regarding the Commission's review and necessary actions to be taken.

KRM:

Attachments:

1. Vicinity Map and map showing infrastructure
2. City application and Irrevocable Agreement to Annex
3. County Conditions of Approval for CUP
4. Tom Dodson and Associates response and County's environmental Analysis of Tentative Parcel Map, CUP, and General Plan Amendment
5. Draft Resolution #2784